



# MASSACHUSETTS DEPARTMENT OF REVENUE

## Estate Tax; Valuation of Real Property

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**ISSUE:** May an executor use local property tax values as estate tax values for property included in a decedent's estate?

**DISCUSSION:** The Massachusetts estate tax, G.L. c. 65C, is based on the Internal Revenue Code (I.R.C.) in effect on January 1, 1975. In addition, for Massachusetts estate tax purposes, the Department of Revenue follows the federal regulations interpreting federal estate tax law to the extent they are not inconsistent with Massachusetts law. G.L. c. 62C, § 3.

Section 2033 of the I.R.C. requires that the gross estate of a decedent include the value of all property to the extent of the interest of the decedent at the time of his death (or at an alternative valuation date six months later). Under Treas. Reg. § 20.2031-1(b), the value to be assigned a decedent's interest included in the gross estate is its "fair market value at the time of decedent's death." "Fair market value" is in turn defined as "the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts." *Id.*

For federal estate tax purposes, a local assessment is not to be used as the value reported on the estate tax return unless that value represents the fair market value as of the applicable valuation date. Treas. Reg. § 20.2031-1(b).

While Massachusetts cities and towns must determine the fair cash value of real property for purposes of local taxation, they are required to revalue real property only every three years, G.L. c. 40, § 56, and a physical inspection of the property may not take place. In addition, the value for property tax purposes is always that of the property as of January 1 of the year preceding the fiscal year in which the tax is to be paid. G.L. c. 59, § 11. Thus the assessed value as it appears on the tax bill may or may not reflect the fair market value of the property at the time of death due to changes in market circumstances or changes in the property itself. Accepting the assessed value as the estate tax value would, therefore, not conform with the requirement that the valuation of the property be the fair market value at the time of death. I.R.C. § 2033.

In arriving at a valuation for estate tax purposes, the Department of Revenue must use all information available to it to value the particular parcel under consideration. The local assessed value is only one factor which will be considered; the closer the assessment is to the time of death, the more weight it will be accorded. Other factors which are taken into account include comparable sales in the community, capitalization of earnings (for income producing property) and reports of appraisers who have examined the property. Where there has been or will be an arm's length sale of the property close to the date of death, great weight will be given to the sales price, which will generally be accepted as fair market value.

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# D O R D I R E C T I V E

**DIRECTIVE:** The Department of Revenue cannot accept local assessed values as the value of property for estate tax purposes. The Department is required to value property at fair market value as of the date of the decedent's death. Since the assessed valuation may fail to reflect the fair market value of the property at the date of death due to changing circumstances, the assessed valuation is only one factor to be considered in arriving at the fair market value of real estate for estate tax purposes.\*

**\*Note:** Certification by the Commissioner under G.L. c. 40, § 56 that property within a community is assessed at full and fair cash value does not certify the particular valuation of any individual property. This certification has no bearing on whether a property has been assessed at fair market value for estate tax purposes, although the value at which an individual property is assessed is a factor to be considered.

**REFERENCE:** G.L. c. 40, § 56; G.L. c. 59, § 11; G.L. c. 62C, § 3; I.R.C. § 2033; Treas. Reg. § 20.2031-1(b).

December 31, 1988



Stephen W. Kidder  
Commissioner of Revenue

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This Directive represents the official position of the Department of Revenue on the application of the law to the facts as stated. The Department and its personnel will follow this Directive, and taxpayers may rely upon it, unless it is revoked or modified pursuant to 830 CMR 62C.01(5)(e). In applying this Directive, however, the effect of subsequent legislation, regulations, court decisions, Directives, and TIRs must be considered, and Department personnel and taxpayers may rely upon this Directive only if the facts, circumstances and issues presented in other cases are substantively the same as those set forth in this Directive.